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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|-------------------------|---------------------|------------------|
| 09/470,343 | 12/22/1999 | Bernardo Martinez-Tovar | P-1583 | 6032 |

20978 7590 02/04/2004

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EXAMINER

CHAMBERS, TROY

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3641

DATE MAILED: 02/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/470,343

Applicant(s)

MARTINEZ-TOVAR ET AL.

Examiner

Troy Chambers

Art Unit

3641

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 November 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____.

MICHAEL J. CARONE
SUPERVISORY PATENT EXAMINER

LETTER

1. On 12/08/2003 an Advisory Action was mailed in response to applicant's amendment/request for consideration mailed on 06 November 2003. However, the Examiner did not indicate whether the amendment would be entered. On 01/27/2004, the Examiner returned a call from attorney of record Fred Spaeth and informed him that a revised Advisory Action will be sent.
2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Troy Chambers whose telephone number is (703) 308-5870. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Carone, can be reached at (703) 306-4198.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-4177. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.


MICHAEL J. CARONE
SUPERVISORY PATENT EXAMINER

009/470,343

Continuation of 2. NOTE: the amendment of claim 22 requires further search and/or consideration for compliance with 35 USC 102, 103 and 112(1) and (2).

Continuation of 5. does NOT place the application in condition for allowance because: Continuation of 5. does NOT place the application in condition for allowance because: Applicant's arguments are not persuasive. Specifically, applicant argues that the inclusion of tungsten defeats the novel and basic characteristics of the invention because, as disclosed by the specification (pg. 3, line 24 - pg. 4, line 28), the melting point of tungsten is higher than the melting point of SILICON. However, SILICON, is not a recited element of the claims. Therefore, even if (arguendo), applicant's arguments are true, they apply only when the claims recite silicon. Otherwise, the presence of tungsten does not "materially affect" the basic and novel characteristics of the claims. For at least this reason, applicant's request for reconsideration does not place the application in condition for allowance..